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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,620	12/24/2003	Aaron Golle	1748007US1	1482
21186	7590	09/28/2005	EXAMINER	
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH P.O. BOX 2938 MINNEAPOLIS, MN 55402-0938			CARIASO, ALAN B	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 09/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/707,620

Applicant(s)

GOLLE ET AL.

Examiner

Alan Cariaso

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 20050719.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the battery attached to the mudflap (claim 4) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the EL lighting is red (claim 7), the EL lighting is green (claim 8), a kit (claims 13 and 14), adding a layer over the EL lighting to protect the EL lighting from damage (claim 20).

3. The disclosure is objected to because of the following informalities: Page 9, paragraph 0040, line 10, "blicking" is misspelled.

Appropriate correction is required.

Claim Objections

4. Claim 13 is objected to because of the following informalities: Claim 13, line 1, the terms "one *or* the mudflaps" appear incorrect relative to the next set of related terms "one of the mudflaps". Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Claim 5 recites "wherein the EL lighting blinks", which is indefinite as lacking structure or means to produce this function.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-3, 5, 6, 10-12, 15-17, 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by FERNANDEZ (US 5,434,013).
10. FERNANDEZ discloses a mud flap comprising a main body (82) and EL lighting (12) attached to the main body (82); the main body (82) has a left side or right side orientation (fig.5); wherein the EL lighting is a form of safety indicia (col.5, lines 15-34) that inherently denotes caution; wherein the EL blinks (at least by colors changes and being frequency sensitive to signals in col.4, lines 21-54); wherein the EL lighting includes at least two colors (col.4, lines 55-61); wherein the EL lighting has a first color in daylight (if the EL device is not activated, will have a some viewable hue from the given phosphor and ambient light) and a second color in the dark (if the EL device is activated and subject to at least a variety of changeable colors in col.4); further comprising a layer (26,26a in fig.3, 60 in fig.4) over the EL lighting that changes the color of the EL lighting (col.4, lines 60-68; col.5, lines 6-15); A vehicle (10 fig.5) that includes at least one (82) of the mudflaps; method for improving safety of a vehicle in

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conditions of impair visibility (col.5, lines 15-34) comprising an installed EL-illuminated mudflap (82,12 in fig.5), given the apparatus of the EL device (12) with mudflap (82), meets the method of making the mudflap (82) and attached EL lighting system (12, figs.3 & 4) the includes adding layers (26,26a,60) in changing the color (col.4, lines 21-61) and adding a layer (44) protecting the EL lighting from damage (col.4, lines 17-18).

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 4, 7-9 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over FERNANDEZ (US 5,434,013) in view of ISELER et al (DE 10108713 A1, included are English abstracts: DE 10108713 A1 and of Derwent 2002-659012).

13. FERNANDEZ discloses the claimed invention except: a battery attached or method of attaching a battery to the mudflap for powering the EL lighting (claims 4 and 18); the EL lighting being red, green and yellow (claims 7-9).

14. ISELER teaches a battery (14, figs.1 or 3) accommodated in mudguards (6) constructed as a storage box for the purpose of operating the rear lighting fixture (15-fig.3 or see either English abstracts). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the EL-mudflap device of FERNANDEZ to include the type of battery attached to the mudflap or

mudguard as taught by ISELER et al in order to best utilize available constructional space so as to proximately power the rear lighting fixture of mudflap.

15. As for the colored EL lighting of red, green and yellow, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the varying or multi-color EL-lighting device of FERNANDEZ to include colors of red, green and yellow, since it has been well-known in the art of lighting that produce various colors to include any colors known in the visible spectrum of ROYGBIV for visual display or at least colors of red, yellow and green that are well-known to be used for visual signaling and warning for traffic safety.

16. Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over FERNANDEZ (US 5,434,013) in view of PRICE (US 4,927,177).

17. FERNANDEZ discloses the claimed invention except: a kit comprising mudflaps having a left-handed orientation and a right-handed orientation; a kit comprising four mudflaps, two of which have left-handed orientation and two of which have right-handed orientation.

18. PRICE teaches a kit comprising at least a pair of left and right vehicle splash guards (42,44) for the purpose of facilitating packaging and installing/fitting at least a pair of right and left splash guards onto any of the front or rear pair-set of tire cavities of the vehicle. To have a kit of four or two pairs of left and right splash guards would be well known to facilitate installation of splash guards on both the front and rear pair-set of tire cavities. It would have been obvious to one having ordinary skill in the art at the

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time the invention was made to modify the EL-mudflap device of FERNANDEZ to include the type of kit of at least a pair of right and left splash guards as taught by PRICE in order to facilitate packaging and installing with fitting of the pairs of right and left splash guards to both pair-sets of tire cavities so as to have a visual symmetry in displaying all four splash guards in a 4-wheeled vehicle.

Conclusion

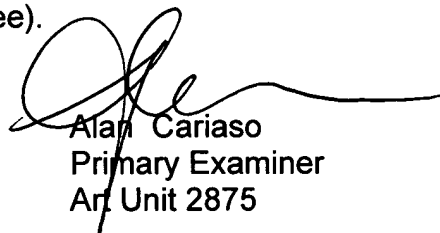
19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. MARTIN (US 5,025,351) shows a splash guard that includes an attached matrix circuit of light emitting diodes (a form of electroluminescent light source) that from symbols or visual signaling that includes a blinking circuit (fig.1) and switch circuit (fig.2). CHIEN (2003/0231485) shows front and back mudguards (1413, fig.14) having EL lighting.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alan Cariaso whose telephone number is (571) 272-2366. The examiner can normally be reached on 9-5:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alan Cariaso
Primary Examiner
Art Unit 2875

September 26, 2005

AC